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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1769 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : YES  
to see the judgements?
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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JAGDISHCHANDRA KARSHANDAS GHEVARIA

Versus

STATE OF GUJARAT

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Appearance:

MR Navink Pahwa for MS SUMAN PAHWA for Petitioner  
MR S.S. Patel, ASSTT GOVERNMENT PLEADER for  
Respondent No. 1  
Ms. Parinda J. Davawala for Respondent No. 4

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 24/06/1999

ORAL JUDGEMENT :

Heard the learned advocates for the respective parties.

2. The petitioner herein challenges the order of preventive detention dated 4th February 1999 made by the District Magistrate, Junagadh under the powers conferred upon him under subsec.(2) of sec.3 of the Prevention of Black Marketing and Maintenance of Supplies of Essential

Commodities Act, 1980.

3. The petition requires to be allowed on the ground of not attending to the representation made against the impugned order through the learned advocate to the District Magistrate on 23rd February 1999. The order of detention made by the District Magistrate was approved by the State Government on 15th February 1999. Therefore, the District Magistrate could not have considered and decided the representation made to him on 23rd February 1999. All that he was required to do was to forward the said representation to the State Government, probably with his own remarks. The said representation was received by the office of the District Magistrate on 1st March 1999 and it took five days for the said office to decide that it should not be considered and decided on merits and should be forwarded to the State Government. The affidavit made by the District Magistrate discloses that having received the said representation on 1st March 1999, it had to travel from his Personal Assistant to himself and then to the Additional Collector, Food Branch, District Supply Officer, Head Clerk and back to the District Magistrate. I am unable to comprehend as to why the representation ought to have been moved from table to table as referred hereinabove. Further, four days are spent in sending the representation from one officer to another. It is not explained as to whether all the aforesaid officers had to apply their mind to the representation or had to offer some comments upon the said representation. The practice of moving papers from one table to the other, more particularly in detention matters has been deprecated by the Honourable Supreme Court as early as in the year 1981 in the matter of Harish Pahwa v. State of U.P. and others, [AIR 1981 SC 1126]. However, it appears that the respondent authorities have not been able to streamline their procedure and to avoid the avoidable delay.

4. The above laxity by the office of the District Magistrate is sufficient to vitiate the continued detention of the petitioner. The petition is, therefore, allowed. The impugned order dated 4th February 1999, Annexure 'A' to the petition, is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

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